



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Paper No.

COPY MAILED

AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of
Taguchi et al.
Application No. 10/805,251
Filed: March 22, 2004
Attorney Docket No. Q80578

:
:
: DECISION ON PETITION
:
:

This is a decision on the "Petition under 37 C.F.R. § 1.17(h)," filed August 4, 2004. Petitioner requests, in essence, that the above-identified application be accorded a filing date of March 22, 2004, with page 2 of the specification considered a part of the original application disclosure.

Application papers in the above-identified application were filed on March 22, 2004. However, on June 4, 2004, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," advising applicants that the application papers had been accorded a filing date of March 22, 2004; however, page 2 of the specification appeared to have been omitted.

In response, applicant timely filed the instant petition (and petition fee). Applicants contend that a complete set of specification of one-hundred and forty-eight (148) pages (comprising the specification, claims and abstract), including the purportedly missing page 2 of the specification, was actually filed, received and acknowledged by the PTO on March 22, 2004. In support thereof, applicants submitted a copy of their return postcard from the USPTO. Petitioner also submitted a copy of the application as they maintain it was originally filed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioners' postcard receipt reveals that: 1) it was date stamped as received in the USPTO on March 22, 2004, and the items filed therewith were assigned Application No. 10/805,251; 2) it specifically identifies the items being filed, including "#Pgs. Spec/Abst: 147/1" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted were filed on March 22, 2004.

The application papers already considered received in the Office on March 22, 2004, were reviewed along with page 2 of the specification submitted on petition. These papers together

constitute the items described on the postcard receipt as "#Pgs. Spec/Abst: 147/1." It is concluded that petitioner has shown that page 2 of the specification was among the items present in the application on the date of deposit and should be included in the original application disclosure.

Accordingly, the petition is GRANTED.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 19-4880, as authorized.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. OIPE will:

- reprocess the application with a filing date of March 22, 2004 using the application papers received in the Office and presently accorded that date; and page 2 of the specification resupplied on petition filed August 4, 2004.

Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at 703-305-0309.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions